

Internal Revenue Service

Department of the Treasury

Washington, DC 20224

NO PROTEST RECEIVED
Copies to District
Date 9-28-90

Person to Contact: [REDACTED]

Signature [REDACTED]

Telephone Number:

Refer Reply to: [REDACTED]

Date:

JUL 16 1990

Dear Applicant:

We have considered your application for recognition of exemption from federal income tax under section 501(a) of the Internal Revenue Code as an organization described in section 501(c)(7).

The information submitted indicates that you were incorporated under the laws of [REDACTED] on [REDACTED]. Your purpose is to operate certain facilities for the pleasure and recreation of your members and their guests.

At the present time, the facilities are owned by [REDACTED] (the "Partnership"). However, negotiations between the corporation and the partnership are under way for the purchase of the facilities. Once the purchase is finalized, you will offer public equity and other special memberships as may be provided by the Board of Directors under the by-laws of the corporation. Once all the memberships have been subscribed to, the officers of the corporation will turn over the facilities to its members. It is expected that the above will take place approximately in [REDACTED].

Article Nine of your Articles of Incorporation provides certain limitations on the power of your Board of Directors to manage the affairs of the Club prior to sale of all equity memberships.

Article IV of your by-laws provides that prior to the sale of the Club facilities by the Partnership to you, your Board of Directors will be designated by the Partnership. Directors designated by the Partnership "shall have no fiduciary or other obligations to act on behalf of the actual or prospective members of the Club or the Club itself, and it is specifically understood that said persons will act solely on behalf of the Partnership."

Section 501(c)(7) of the Code provides for the exemption from federal income tax of clubs organized and operated for pleasure, recreation, and other nonprofitable purposes substantially all of the activities of which are for such purposes and no part of the net earnings of which inures to the benefit of

any private shareholder or individual.

Rev. Rul. 65-219, 1965-2 C.B. 168, provides that a club which is operated under an agreement with its resident agent whereby he controls the size of the club membership, the amounts of initiation fees and annual club dues, and retains all initiation fees and 90 percent of dues and transfer fees in return for the exclusive use of the swimming pool which he owns and operates is not exempt from federal income tax under section 501(c)(7) of the Code. The agreement permitted the club to use the property as a licensee for a period of 20 years. In addition to undertaking the expense of constructing the pool, the licensor agreed to pay for the support and maintenance of the pool, and to furnish personnel necessary for its efficient operation. The Rev. Rul. concluded that arrangement in this case went beyond the normal management contract whereby a club is saved the burden of administrative details by paying a reasonable rental to an outside operator in the form of a share of the receipts. Accordingly, it was held that the club is operated as a commercial venture for the financial benefit of the licensor and was not exempt under section 501(c)(7) of the Code.

The information provided shows that your operations will be controlled by the Partnership prior to the sale of the equity memberships and facilities by virtue of the provisions in your Articles of Incorporation and by-laws noted above. As such, the Club will be operated for that period of time as an integral part of a commercial venture for the financial benefit of a for-profit entity. Therefore, you are not operated exclusively for the pleasure and recreation of your members.

Accordingly, we have concluded that you do not qualify for recognition of exemption from federal income tax under section 501(c)(7) of the Code and are required to file federal income tax returns.

You have the right to protest this ruling if you believe it is incorrect. To protest, you should submit a statement of your views, with a full explanation of your reasoning. This statement, signed by one of your officers, must be submitted within 30 days from the date of this letter. You also have a right to a conference in this office after your statement is submitted. You must request the conference, if you want one, when you file your protest statement. If you are to be represented by someone who is not one of your officers that person will need to file a proper power of attorney and otherwise qualify under our Conference and Practices Requirements.

[REDACTED]

If we do not hear from you within 30 days, this ruling will become final and copies will be forwarded to your key District Director. Thereafter, any questions about your federal income tax status should be addressed to that office.

When submitting additional letters with respect to this case to the Internal Revenue Service, you will expedite their receipt by placing the following symbols on the envelope: [REDACTED]. These symbols do not refer to your case but rather to its location.

Sincerely yours,

(Signed) [REDACTED]

[REDACTED]
Chief, Exempt Organizations
Rulings Branch 2

cc: [REDACTED]

Attn: EO Group